

AN ACT

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District of
Columbia
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children to include “domestic violence counselors” among the professionals to whom the mandatory reporting requirement applies; to amend Chapter 3 of Title 14 of the District of Columbia Official Code to provide for confidentiality of information revealed by a victim of domestic violence to a domestic violence counselor, and to provide domestic violence counselors with a testimonial privilege; and to amend section 16-1004 of the District of Columbia Official Code to require that temporary protection orders that are scheduled to expire on a day when the Superior Court of the District of Columbia is closed shall continue in effect until the next day that the court is open for regular business.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Domestic Violence Amendment Act of 2006”.

Sec. 2. Section 2(b) of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02(b)), is amended by striking the phrase “and mental health professional” and inserting the phrase “domestic violence counselor as defined in D.C. Official Code § 14-310(a)(2), and mental health professional as defined in section 101 of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01(11))” in its place.

Amend
§ 4-1321.02

Sec. 3. Chapter 3 of Title 14 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the following phrase at the end: “14-310. Domestic violence counselors.”.

(b) Section 14-307 is amended by striking the phrase “§ 7-1201.01(11)” and inserting the phrase “§ 7-1201.01(11) or a domestic violence counselor as defined in § 14-310(a)(2)” in its place.

Amend
§ 4-307

(c) A new section 14-310 is added to read as follows:

“§ 14-310. Domestic violence counselors.

“(a) For the purposes of this section, the term:

“(1) “Confidential communication” means information exchanged between a victim and a domestic violence counselor during the course of the counselor providing counseling, support, and assistance to a victim, including all records kept by the counselor and the domestic violence program concerning the victim and services provided to the victim.

“(2) “Domestic violence counselor” means an employee, contractor, or volunteer of a domestic violence program who:

“(A) Is rendering support, counseling, or assistance to a victim;

“(B) Has undergone not less than 40 hours of domestic violence counselor training conducted by a domestic violence program that includes dynamics of domestic violence, trauma resulting from domestic violence, crisis intervention, personal safety, risk management, criminal and civil court processes, and resources available to victims; and

“(C)(i) Is or is under the supervision of a licensed social worker, nurse, physician, psychologist, or psychotherapist; or

“(ii) Is or is under the supervision of a person who has a minimum of 5 years of experience rendering support, counseling, or assistance to persons against whom severe emotional abuse or a criminal offense has been committed or is alleged to have been committed, of which at least 2 years of experience involves victims.

“(3) “Domestic violence program” means a nonprofit, non-governmental organization that supports, counsels, and assists victims, including domestic violence hotlines, domestic violence shelters, and domestic violence intake centers.

“(4) Intrafamily offense” shall have the same meaning as provided in § 16-1001(5).

“(5) “Victim” means a person against whom severe emotional abuse or an intrafamily offense has been committed or is alleged to have been committed.

“(b)(1) A domestic violence counselor shall not disclose a confidential communication except:

“(A) As required by statute or by a court of law;

“(B) As voluntarily authorized in writing by the victim;

“(C) To other individuals employed at the domestic violence program and third party providers when and to the extent necessary to facilitate the delivery of services to the victim;

“(D) To the Metropolitan Police Department or other law enforcement agency to the extent necessary to protect the victim or another individual from a substantial risk of imminent and serious physical injury;

“(E) To compile statistical or anecdotal information, without personal identifying information, for research or public information purposes; or

“(F) For any confidential communications relevant to a claim or defense if the victim files a lawsuit against a domestic violence counselor or a domestic violence program.

“(2) Unless the disclosure is public, confidential communications disclosed pursuant to paragraph (1) of this subsection shall not be further disclosed by the recipient except as authorized in paragraph (1) of this subsection.

“(3) Confidential communications are not waived by the presence of a sign language or foreign language interpreter. Such an interpreter is subject to the same disclosure limitations set forth in paragraph (1) of this subsection and the same privilege set forth in subsection (c) of this section.

“(c)(1) Except as provided in paragraph (2) of this subsection, when a victim is under 12 years of age, has been adjudicated incompetent by a court of competent jurisdiction for the purpose of asserting or waiving the privilege established by this section, or is deceased, the victim’s parent, guardian, or personal representative may assert or waive the privilege.

“(2) If the parent, guardian, or personal representative of a victim described in paragraph (1) of this subsection has been charged with an intrafamily offense or has had a protection order or a neglect petition entered against him or her at the request of or on behalf of the victim, or otherwise has interests adverse to those of the victim with respect to the assertion or waiver of the privilege, the court shall appoint an attorney for purposes of asserting or waiving the privilege.

“(d) The assertion of any privilege under this section is not admissible in evidence.

Sec. 3. Section 16-1004(d) of the District of Columbia Official Code is amended as follows:

**Amend
§ 16-1004**

(a) Designate the existing language as paragraph (1).

(b) The newly designated paragraph (1) is amended by striking the phrase “of not more than 14 days duration” and inserting the phrase “of not more than 14 days duration, subject to extensions provided in paragraph (2) of this subsection,” in its place.

(c) New paragraphs (2), (3), and (4) are added to read as follows:

“(2) If the 14th day falls on a Saturday, Sunday, legal holiday, or a day on which weather or other conditions cause the Superior Court of the District of Columbia (“Court”) to be closed, the duration of the temporary protection order shall extend until the next day in which the Court is open.

“(3) All temporary protection orders issued pursuant to this subsection shall include language explaining, as a matter of law, that if the day on which they are set to expire is a Saturday, Sunday, legal holiday, or a day on which the weather or other conditions cause the Court to be closed, that the temporary protection order shall be extended for the duration provided in paragraph (2) of this subsection.

“(4) For the purposes of this subsection, the term “legal holiday” means any day observed as a holiday by the Court.”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia